



Legislative Update: May 12, 2023

Both the House and Senate convened in Springfield this week. The week was full of committee and floor action in both chambers. May 11th marked the Third Reading deadline for House bills to be approved by the Senate, and today (May 12th) is the Third Reading deadline for Senate bills to be approved by the House. There is only one week left in the spring legislative session. Next week will be a sprint to the finish line as the scheduled May 19th adjournment date looms closer.

Legislators' focus has turned to the passage and approval of the FY 24 spending plan. Budget negotiators are navigating many pressures as they aim to pass a balanced budget with less revenue than in recent years – and more spending requests from more Democrats in Springfield. The state's Commission on Government Forecasting and Accountability (COGFA) recently announced that April 2023 state revenues were significantly lower than previous COGFA predictions. State revenue dropped \$1.84 billion from April 2022, which led COGFA to revise the FY 23 forecast by \$728 million. The revised FY 23 estimate is about \$183 million below the Governor's Office of Management and Budget's estimate that was used to craft Governor Pritzker's February budget address.

The revised revenue forecast creates additional pressure on budget negotiators to ensure FY 24 spending requests remain in check. A complicating factor includes an effort by some Democrats to expand an existing healthcare program for undocumented immigrants. In 2020, Illinois created a program that provides Medicaid-style healthcare coverage to immigrants 65 and older. The program has been expanded twice and currently covers individuals who are 42 and older. Sen. Omar Aquino (D-2) is leading an effort to expand the program to non-citizens ages 19-41. The Illinois Department of Healthcare and Family Services recently testified before a Senate Appropriations Committee that the program could cost an additional \$880 million next fiscal year and could balloon to nearly \$1.5 billion if lawmakers succeed in their attempt to expand the program.

The proposed expansion of this program is just one example of spending requests that are being proposed by lawmakers. Governor Pritzker's spokesperson recently stated that the Governor is committed to working with the General Assembly to approve a "responsible balanced budget that makes necessary investments while living within the state's means". IMSCA will be closely watching budget details as FY 24 budget negotiations continue.

SB 133 (Assistant Majority Leader Holmes) remains IMSCA's top legislative priority. This legislation amends the Public Construction Bond Act and seeks to reduce retainage on public construction projects. IMSCA engaged in negotiations with stakeholders this spring and agreed to amend SB 133 to **provide that retainage may be withheld at a rate of 10% for the first half of a construction project and reduced to 5% when the project is 50% complete.** As of

the writing of this report, IMSCA anticipates that our retainage reduction language will be combined with additional legislation that further amends the Public Construction Bond Act. **President Harmon is leading negotiations to create a pilot program aimed at addressing the concerns of minority-owned and women-owned contractors regarding bonds on public construction projects.** The details of the proposed pilot program have not been finalized, and at this time, IMSCA does not know the specific bill number that will be used as the vehicle for movement through the legislative process. It is likely that the pilot program being negotiated by President Harmon and retainage reduction language will be added to a House bill that is in the Senate. **It is important to note that this is an evolving issue and IMSCA's lobbying team is laser focused on remaining engaged as this issue continues to develop.** As more information becomes available, IMSCA members will be updated accordingly.

SB 1570 as amended (Sen. Lightford, Rep. DeLuca) grants municipalities and school districts statutory authority to utilize the design build delivery method. This bill includes scope and performance criteria for design build contracts, a two-phase procedure for selection of contracts, requirements for submission of proposals, procedures for awarding contracts and requirements of reports, evaluation of contracts, and provides that a design-build entity may not replace, remove, or modify any identified member of the proposer's team unless authorized to do so. Existing design-build statutes include the Capital Development Board, Public Building Commission, Chicago Park District, Park Districts, Forest Preserve Districts and most recently, county governments. The Capital Development Board law was approved as part of a broad industry coalition; including IMSCA and served as the template for the remaining statutes. **SB 1570 as amended awaits a concurrence vote in the Senate.**

SB 2192 (Sen. Villivalam, Rep. Davis) amends the Illinois Procurement to provide that if a bidder has failed to be awarded a contract after 4 consecutive bids to provide the same services to a single agency, the applicable Chief Procurement Officer (CPO) for that agency shall provide in writing the reasons why the 4 bids were rejected. The CPO shall submit a certified copy to the bidder the reason(s) for the rejection. As amended, this bill applies to the Department of Transportation, the Capital Development Board, and the State Toll Highway Authority. **SB 2192 received unanimous approval in the Senate and is on 2nd Reading in the House.**

SB 2368 as amended (Sen. Koehler, Rep. Johnson) creates a baseline building code for commercial construction. As amended, SB 2368 applies to "non-building code jurisdictions"; which is defined as "any area of the State in a municipality or county having a jurisdiction that: (i) has not adopted a building code; or (ii) is required to but has not identified its adopted building code to the Board under Section 10.18 of the Capital Development Board Act". SB 2368 as amended also includes language referring to specific existing building codes such as the International Building Code, Energy Efficient Building Code, Illinois Stretch Energy Code, Illinois Accessibility Code, and the Illinois Plumbing Code. **SB 2368 was approved by both chambers.**

HB 2492 as amended (Rep. Williams, Sen. Gillespie) amends the School Code to allow school districts to issue bonds or certificates to finance guaranteed energy savings contracts. Guaranteed Energy Savings Contracts (also known as Energy Performance Contracting) is a process that bundles the design, construction, financing, and continued maintenance of energy efficiency projects for public buildings. By allowing bonds and certificates to fund these projects, “energy performance” will potentially be able to be used for any project – regardless of size, scope, and timeframe. IMSCA has maintained the position that energy performance contracting can be a useful tool, however, due to the many documented abuses associated with the use of performance contracting – IMSCA opposes expanding its use until more accountability and oversight of these projects is put in place. **HB 2492 advanced to the Senate where it remains in Senate Assignments.**

HB 3491 (Rep. Hanson, Sen. Preston) amends the Prevailing Wage Act to provide that any laborer, worker, or mechanic who is employed by the contractor or by any lower tier subcontractor and is paid for services in a sum less than the prevailing wage rates for the work performed on a project shall have a right of action for whatever difference there may be between the amount paid and the prevailing wage rates required to be paid. **Despite opposition from the construction and business industries, including IMSCA, HB 3491 was approved by both chambers.**

HB 3448 as amended (Rep. Evans, Jr., Sen. Castro) amends the Wage Payment & Collection Act to provide that a notice shall be posted in one or more places accessible to all laborers, workers, and mechanics on the job site a summary of specified requirements of the Act and information pertaining to the filing of a complaint. HB 3448 as amended further provides that one copy of the notice at a job site shall satisfy the notice requirement for the primary contractor and all subcontractors. **HB 3448 as amended awaits a concurrence vote in the House.**

IMSCA is on alert due to rumors of possible omnibus bill packages that may be unveiled prior to the May 19th adjournment. Some potential issues that may be addressed via forthcoming omnibus legislation include **procurement, revenue, property taxes, pensions, and ethics.** An omnibus bill is a consolidation of multiple bills that creates one large bill package. As more information on these potential issues becomes available, IMSCA members will be updated accordingly. Your IMSCA lobbying team is keeping a watchful eye on these issues and more as the legislative session inches closer to adjournment.